

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHERYL LYNN MINOR,

Plaintiff,

Case No: 1:10-cv-782

v

HON. JANET T. NEFF

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

OPINION AND ORDER

Plaintiff seeks judicial review of a decision of the Commissioner of the Social Security Administration. 42 U.S.C. § 405(g). The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R & R), recommending that this Court affirm the Commissioner's decision to deny Plaintiff's claim for Disability Insurance Benefits (DIB) under Title II of the Social Security Act. The matter is presently before the Court on Plaintiff's objections to the R & R (Dkt 26). Defendant has filed a response to the objections (Dkt 27). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the R & R to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff argues that the Magistrate Judge erred in failing to appropriately apply the "treating source rule," which repeated the error of the Administrative Law Judge (ALJ), as Plaintiff specifically outlined in requesting judicial review (Objs. at 2). She contends that the Magistrate Judge relied on Dr. Grant Hyatt and Dr. Yasmeen Ahmad, who provided only consultive examinations, rather than crediting Plaintiff's six treating physicians, particularly Dr. Garb Ruoff,

who concluded that Plaintiff was “incapable of even low stress jobs” (R & R at 19). Plaintiff complains that “[t]he Magistrate Judge did not apply in any way the treating source rule” in that she did not (1) address the longitudinal treatment of the physicians; (2) the objective evidence establishing the disability; (3) the specialities involved or the consistency of the findings; and did not even consider the opinions of Dr. Kaps or Dr. Newman, both of whom provided objective evidence supporting Dr. Ruoff (Objs. at 9). Plaintiff’s arguments are without merit.

The Magistrate Judge specifically considered the ALJ’s analysis and determination of in light of the record and the appropriate legal principles for the treating source rule (R & R at 19-23). The Magistrate Judge assessed the medical opinions at issue only after setting forth Plaintiff’s relevant medical history in extensive detail (*id.* at 4-15). Given the record, the Magistrate Judge properly found that Dr. Ruoff’s opinion was not entitled to deference because, as detailed in the medical history, his opinion was not supported by objective medical testing and Plaintiff’s numerous physical examinations, and it contradicted the substantial medical evidence (*id.* at 20-21). *See Cohen v. Sec’y of Dep’t of Health & Human Servs.*, 964 F.2d 524, 528 (6th Cir. 1992); *Miller v. Sec’y of Health & Human Servs.*, No. 91-1325, 1991 WL 229979, at *2 (6th Cir. Nov. 7, 1991).

The Magistrate Judge set forth specific and proper grounds for discounting or rejecting the opinions or examinations cited by Plaintiff (R & R at 21-23). Although Plaintiff objects that the Magistrate Judge did not consider the opinions of Dr. Igor Kaps or Dr. Donald Newman, Plaintiff fails to provide any support for her claim that they provided objective evidence supporting Dr. Ruoff (Objs. at 9). As Defendant points out, the ALJ fully considered and appropriately rejected Dr. Newman’s opinion of Plaintiff’s limitation (AR at 17). Contrary to Plaintiff’s assertion that Dr. Kaps treated Plaintiff for 33 years (Objs. at 3), the record indicates that Plaintiff was only referred

to him in 2005 for an evaluation of symptoms related to a motor vehicle accident (AR at 560). The Magistrate Judge properly concluded that the ALJ's decision was supported by substantial evidence.

Plaintiff's objections are therefore denied.

A Judgment will be entered consistent with this Opinion.

Dated: February 28, 2012

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge